

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 22.06.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No.3606 of 2003
and

W.A.M.P. No.5889 of 2003

The Secretary,
Perunthalaivar Kamarajar Higher
Secondary School.
Meenakshipuram,
Virudhunagar District,
Pin Code No.626 139. ... Appellant/4th respondent

Vs.

1. A. Jeyapaul Mohan ...Respondent/Petitioner

2. The Secretary,
Karnataka Secondary Education
Examinations Board,
Bangalore-3.

3. The State of Tamil Nadu
rep. by
The Director of Elementary Education,
Madras-6.

4. The District Educational Officer,
Virudhunagar, Virudhunagar District. ... Respondents/Respondents
1 to 3

Appeal filed under Clause 15 of the Letters Patent against the
order of the learned single Judge, dated 23.07.2003, made in
W.P. No.4374 of 1996.

W.P. No.4374 of 1996:- Petition filed under Article 226 of the
Constitution of India to issue a writ of certiorari to call for
the records in the impugned order dated 25.3.96 passed by the 4th
respondent.

For Appellant : R.Suresh Kumar
For Respondent-1 : Mr.M.V.Venkataseshan
For Respondent-2 : No Appearance
For R-3 & R-4 : Mr.M.Dhandapani,
Additional Government Pleader.

J U D G M E N T

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

The above Writ Appeal is directed against the order of the learned single Judge, dated 23.07.2003, made in W.P. No.4374 of 1996, in and by which, the learned Judge directed the school Management to afford an opportunity to the writ petitioner and thereafter proceed with the enquiry and decide the issue one way or the other. In the very same order, the learned Judge ordered reinstatement of the petitioner in service with continuity of service.

2. The only grievance of the appellant/Management is that, even if it is held that the first respondent herein/writ petitioner is entitled to an opportunity of show cause notice, the learned Judge is not justified in ordering reinstatement with continuity of service. It is also stated that, after the termination order dated 25.3.1996, in his place one Kasiraju was appointed as Secondary Grade Teacher even on 04.02.1997 and that, in the absence of any order of stay in the writ petition, the said Kasiraju was continuing all along. By pointing out the above factual details, learned counsel for the appellant submitted that the direction regarding reinstatement may be set aside.

3. On the other hand, learned counsel appearing for the first respondent contended that in view of the conclusion of the learned Judge that no opportunity was given to the writ petitioner before passing the order of termination, the learned Judge is justified in granting the consequential relief of reinstatement with continuity of service.

4. We considered the rival contentions and perused the materials. As stated earlier, there is no dispute that the Writ petitioner/first respondent herein should have been given an opportunity of being heard before passing of the termination order dated 25.03.1996. At the same time, it is to be noted that, in the absence of any prohibitory order, the Management, even in the year 1997, appointed the said Kasiraju in his place. No doubt, learned counsel appearing for the first respondent submitted that there is an observation by this Court that any appointment would be subject to the result of the Writ Petition. In view of the fact that immediately after the order of termination, Kasiraju was appointed and thereafter, according to the counsel for appellant, he was promoted and another person was also appointed in his place; we are of the view that, though the first respondent is entitled to an opportunity of being heard, the further direction for reinstatement in service is not warranted, when the court itself permitted the school management to initiate proper proceedings and conduct enquiry as regards the genuineness of the certificate produced by the Writ Petitioner. Accordingly, while confirming the order of the learned Judge with regard to affording opportunity and permitting the management for initiating proper proceedings and enquiry, we set aside the direction relating to reinstatement.

5. Considering the fact that the issue is pending for several years, the proposed enquiry shall be completed within a period of 12 weeks from the date of receipt of copy of this order. The first respondent herein is directed to co-operate for the completion of the enquiry within the time-frame fixed by us. It is made clear that, depending on the outcome of the enquiry, further order has to be passed.

Writ Appeal is allowed in part to the extent mentioned above. No costs. Connected Miscellaneous Petition stands closed.

JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. The Secretary, Karnataka Secondary Education
Examinations Board, Bangalore-3.
2. The Director of Elementary Education,
State of Tamil Nadu, Madras-6.
3. The Secretary,
Perunthalaivar Kamarajar Higher
Secondary School.
Meenakshipuram,
Virudhunagar District,
4. The District Educational Officer,
Virudhunagar, Virudhunagar District.

+ 1 cc to Mr.M. V. Venkataseshan, Advocate SR No.26415

+ 1 cc to Mr.R. Sureshkumar, Advocate SR No.26423

+ 1 cc to Government Pleader SR No.26674

JE (CO)
SR/6.7.2006

W.A. No.3606 of 2003 &
connected Miscellaneous
Petition.



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